

Application No.: 09/681973
Docket No.: CM1015USNA

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REMARKS

Allowance of subject claims 3-5 is respectfully requested.

Rejection Under 35 U.S.C. 103

Claims 3-5 are rejected under 35 U.S.C. 103 as being unpatentable for obviousness over GB 2,074,091 to Hildebrandt et al (Hildebrandt) in view of US 5,134,017 to Baldwin et al (Baldwin)

The Examiner points to various portions of text in the GB reference to show that the claims are obvious. The Examiner admits that GB is silent as to thermal point bonding. Further, in Hildebrandt the fleece is not made of polyurethane, and it is merely part of a laminate that forms a shoe upper. There is no suggestion that the fleece is a liner. The text at column 2, lines 123 to 129 addresses the fleece's breathability, etc. as it relates to an upper, not a lining. Throughout the specification, Hildebrandt is directed to an unlined upper. At page 2, lines 12-14, there is a brief statement that a partial lining can be formed to enclose a heel closure. However, there is no suggestion that the laminate as recited in this reference is intended to act as both a liner and an upper for the entire shoe as is the case in the subject application. Also, the upper in this reference is made from a fleece of polyester and/or polyamide with polyvinyl chloride coated on the fleece. The two-in-one component of the subject invention is made of polyurethane impregnated in a point bonded web of polyamide fibers.

Baldwin is apparently offered to show polymeric foam penetrating (or impregnating) a nonwoven substrate and also for showing that the nonwoven substrate can be point bonded. However, Baldwin is not directed to shoes or footwear of any kind, but rather to protective apparel. The Examiner is apparently suggesting that because Baldwin mentions comfort to the wearer that it would be transferable to footwear. The use and requirement for protective apparel versus shoes are not comparable as would be understood by those of ordinary skill in the respective arts. As such, there would be no motivation to combine Baldwin with Hildebrandt to arrive at the claimed invention.

A prima facie case of obviousness has not been established, therefore, it is respectfully submitted that the rejection is improper and should be withdrawn.

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CONCLUSION

The foregoing is believed to be a full and complete response to the outstanding Office Action. It is further believed that any basis for the rejections have been overcome and that the pending claims should be allowed. If any matters remain for resolution, the Examiner is encouraged to call the undersigned.

Respectfully submitted,



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